

**REMARKS**

Favorable reconsideration of the present patent application is respectfully requested in view of the foregoing amendments and the following remarks. The applicant appreciates the indication of allowable subject matter in the application. However, it is respectfully submitted that all claims now pending in the application are allowable for at least the reasons outlined below.

In this Amendment no claims are amended or canceled, and claims 39-40 are added. As a result, claims 1, 4-10, 12, 26-34 and 36-40 are now pending in the application.

In the Office Action of December 1, 2005, claims 1, 4-8, 10, 12, 26-31, 34 and 36 are rejected under 35 U.S.C. §103(a) in view of U.S. Patent 6,498,955 (McCarthy) and further in view of U.S. Patent 6,084,516 (Yasushi).

*35 U.S.C. §103 Rejection*

The §103 rejection of claims 1, 4-8, 10, 12, 26-31, 34 and 36 in view of the hypothetical McCarthy/Yasushi combination is respectfully traversed.

The McCarthy patent involves an intelligent environment system that is described as being able to dynamically control environmental factors such as lighting, temperature, decor and background music. The McCarthy patent uses two algorithms to arbitrate preferences in a shared environment and, for example, provide background music which maximizes the satisfaction of the inhabitants. The Office Action notes that McCarthy does not disclose various features of the present invention such as the movement of a user from a first location to a second location in which content from the first location is not being played. The Office Action seeks to overcome

the deficiencies of the McCarthy patent by relying upon the secondarily cited Yasushi patent. It is respectfully submitted that the Yasushi patent does not teach or suggest the features for which it is relied upon in the Office Action.

The Yasushi patent involves an audio apparatus which identifies the various users (residents) in a building and provides audio signals for the residents while the sound level is adjusted in accordance with the current living conditions and physical condition of the residents. When there are multiple residents in a room the Yasushi system plays a common audio signal source so as to satisfy all residents. When there is only one resident in a room the Yasushi system plays that resident's individual audio signal source in the room. This manner of operating the system is described in various passages of the Yasushi patent, including, for example:

In the case where there exists only one resident excluding the resident A, the controller 6 conducts the control in the following manner. When the one resident carries the portable transceiver 100, the audio signal source which is selected for the room 1 is switched to one of the individual audio signal sources 12 which is favored by the resident. In the case where there exist plural residents excluding the resident A, the controller 6 conducts the control so that the common audio signal source 10 is reproduced.<sup>1</sup>

It should be noted that the Yasushi system does not distinguish between the case where a user enters a room and stays for at least a threshold amount of time, or is simply passing through the room. Consequently, the Yasushi system does not teach or suggest “detecting movement of the first user from the first location to a second location in which said content is not being outputted [and] if a third user is present at the second location, determining an amount of time the first user remains at the second location and determining second content characteristics common to the third user and the first user if the first user remains at the second location for at least a threshold

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<sup>1</sup> Yasushi, col. 13, lines 53-61.

amount of time while the third user is present at the second location,” as recited in claim 1 or the similar features of claim 26. **In the event the pending rejection is maintained it is respectfully requested that the next paper point to any teaching or suggestion of these features, and in particular, any portions of the hypothetical McCarthy/Yasushi combination which disclose or suggest “determining an amount of time the first user remains at the second location.”**

Accordingly, the McCarthy patent and the Yasushi patent, either taken singly or as a hypothetical combination, do not teach or suggest the features of the claimed invention. Therefore, withdrawal of the rejection is respectfully requested.

*Deposit Account Authorization / Provisional Time Extension Petition*

To the extent necessary, an additional petition for an extension of time under 37 C.F.R. §1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 50-0439 and please credit any excess fees to such deposit account.

**CONCLUSION**

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. However, in the event there are any unresolved issues, the Examiner is kindly invited to contact applicant's representative, Scott Richardson, by telephone at (703)965-7228 so that such issues may be resolved as expeditiously as possible.

Respectfully submitted,



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